

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

10-20002

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In re

SWINGING DELI, LLC

Debtor

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Chapter 11 Case No. _____

AFFIDAVIT OF BOBBIE ACOFF RICHARDS
PURSUANT TO LOCAL BANKRUPTCY RULE 1007-2

STATE OF NEW YORK)
) s.s.:
COUNTY OF WESTCHESTER)

Bobbie Acoff Richards, being duly sworn, deposes and says:

1. On March 23, 2010 (the "Petition Date"), Swinging Deli, LLC ("Swinging Deli" or the "Debtor") filed a voluntary petition under Chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). I am the president of Swinging Deli. I am familiar with the day-to-day operations and business financial affairs of the Debtor.

2. I submit this affidavit in accordance with Rule 1007-2 of the Local Rules for U.S. Bankruptcy Court for the Southern District of New York (the "Local Rules"). All facts set forth in this Affidavit are based upon my personal knowledge, upon my review of the relevant documents or upon my opinion based on my experience and knowledge of Swinging Deli's operations and financial condition. I am authorized to submit this affidavit in support of Swinging Deli's petition for relief under chapter 11 of the Bankruptcy Code.

3. Unless otherwise indicated, all financial information submitted with this affidavit is presented in an unaudited basis and refers to Swinging Deli, LLC only.

THE NATURE OF THE DEBTOR'S BUSINESS

4. Swinging Deli, a limited liability company organized under the laws of the State of New York, maintains its principal place of business in New York and is authorized to conduct business in the state of New York. Swinging Deli was formed to acquire, own, develop and otherwise manage certain real property located in Westchester County, New York (the Property). The property consists of approximately one commercial building and two parking lots.

THE CIRCUMSTANCES LEADING TO THE CHAPTER 11 FILING

5. On or about March 23, 2007, Swinging Deli, entered into a contract of sale, for the purchase of the property located at 779 South Third Avenue, Mount Vernon, New York, 10550 from Robert Bass and Ina Bass (the "Mortgage Note Holder") through a purchase money mortgage in the original principal amount of \$750,000. (the "Original Note"). In conjunction with the Original note, Robert Bass and Ina Bass, entered into a Mortgage and Security Agreement (the "Original Mortgage"), which purported to grant the mortgage holder a security interest in the property. The lien granted by the Original Mortgage covered all of the property.

6. Upon acquisition of the property, construction was commenced as the property was in a very dire condition. The construction lasted for a period just short one year during which the store was not open for business and thus no rents were collected.

7. As a result of the lack of rental income for such a long period, Swinging Deli had difficulty in maintaining the debt service on the Original Note and was operating at a very significant deficit. The result was that Swinging Deli could not make its monthly mortgage payments for a significant period of time.

8. After the construction was completed, several attempts were made to secure a refinance of the original loan but due to the then financial crisis, it was virtually impossible to get a commitment from a bank willing to refinance the loan

as they believed the default risk ratios were too high and not enough equity existed on the property.

9. On or about October 15, 2008, Robert Bass and Ina Bass through their attorneys commenced foreclosure proceedings in the New York State Supreme Court, Westchester County Index Number 08/23325, to foreclose on the mortgage held by Robert Bass and Ina Bass.

10. On January 27, 2010, a judgment of foreclosure and sale was entered in favor of Robert Bass and Ina Bass, and the property was scheduled for sale at public auction to take place on March 23, 2010, to be held at the lobby of the County Court House, 111 Dr. Martin Luther King Jr. Blvd. White Plains, County of Westchester, State of New York.

OBJECTIVE OF CHAPTER 11 CASE

11. Swinging Deli believes the Property is valuable and, with the proper financing, it can be run at a considerable profit. Based on the market indications, there is substantial equity in the Property that could be used by Swinging Deli to secure refinancing of its current secured debt. In the alternative, Swinging Deli, will and has retained the services of a Commercial Real Estate Broker, to market the property for sale at the current market price.

INFORMATION REQUIRED BY LOCAL BANKRUPTCY RULE, 107-1

12. As required by Local Rule 1007-2(a) (3), to the best of my knowledge, information and belief, no committee was formed prior to the Petition Date.

13. As required by Local Rule 1007-2(a) (4), There are not creditors of the Debtor holding any unsecured claims against the Debtor.

14. As required by Local Rule 1007-2(a) (5), the following creditors of the Debtor assert secured claims: (1) Robert Bass and Ina Bass, 677A Heritage Hills,

Somers, New York, (Attn: Kenneth Saltzman, Esq. of Goodman & Saltzman 22 W. First Street, Suite 622, Mount Vernon, NY 10550.

15. As required by Local Rule 1007-2(a)(6) annexed hereto as **Exhibit -1** is a balance sheet setting forth the assets and liabilities of the Debtor as of December 31, 2009.

16. As required by Local Rule 1007-2(a) (7) the Debtor is not a publicly held company.

17. As required by Local Rule 1007-2(a)(8) to the best of my knowledge, no property of the Debtor is in possession or custody of any custodian, public officer, receiver, trustee, assigned for the benefit of creditors, mortgagee, pledge, assignee of rents, secured creditor or any agent for any of the foregoing.

18. As required by Local Rule 1007-2(a) (9), the Debtor currently owns and occupies the premises as a Delicatessen Store (the "store"). The store is being run under the name 2310 Tillotson Corp, a New York Corporation.

19. As required by Local Rule 1007-2(a) (10), the Debtor's land holdings and books and records are located at 779 South Third Avenue, Mount Vernon, NY. Books and records are also located at 779 South Third Avenue Mount Vernon, NY. The Debtor's bank accounts are located at (i) Citizen's Bank, Stop & Shop Offices, 240 E. Sanford Blvd., Mt Vernon, NY 10550 and (ii) HSBC, Co-Op City Office, Bay Plaza Shopping Center 2014 Bartow Ave Bronx, NY 10467. As required by Local Bankruptcy Rule 1007-2(a) (10), the Debtor does not have any assets located outside of the United States.

20. As required by Local Rule 1007-2(a) (11), to the best of my knowledge, there are no other actions pending against the Debtor.

21. As required by Local Rule 1007-2(a) (12), the Debtor is managed by Bobbie Acoff-Richards. Ms Acoff-Richards is the President of the Debtor and is

responsible for the day to day operations of the Debtor. Ms. Acoff-Richards has been the owner and operator of various business in the past, prior to acquiring and managing the operations of the Debtor.

22. As required by Local Rule 1007-2(b) (1), the debtor does not have employees. Rather, the Debtor utilizes the President Ms. Acoff-Richards for its staffing needs. Ms. Acoff-Richards is solely responsible for all the day to day operations of the Debtor.

23. As required by Local Rule 1007-2(b) (2) (A), no officer or director of the Debtor will be paid.

24. As required by Local Rule 1007-2(b)(3), a projected budget showing the estimated expenses and income for the thirty (30) day period following the Petition Date is attached as **Exhibit -2**.

Dated: Bronx, New York
March 23, 2010

SWINGING DELI, LLC
BY: /s/ Bobbie Acoff-Richards
Bobbie Acoff-Richards
President of Swinging Deli, LLC

Sworn to before me this
22nd Day of March, 2009

/s/ Michael Andre-Williams
Michael Andre Williams
Notary Public, State of New York
No.4891865
Qualified in Bronx, County
Commission Expires May 26, 2011